

Date of issuance: May 15, 2019

**Sanctions Board Decision No. 121
(Sanctions Case No. 555)**

**IDA Credit No. 4954-BD
Bangladesh**

Decision of the World Bank Group¹ Sanctions Board imposing a sanction of reprimand on the respondent entity in Sanctions Case No. 555 (the “Respondent”) by means of a formal letter of reprimand to be posted on the World Bank’s website for a period of six (6) months beginning from the date of this decision. This sanction is imposed on the Respondent for a collusive practice.

I. INTRODUCTION

1. The Sanctions Board convened in March 2019 as a panel composed of Ellen Gracie Northfleet (Panel Chair), Olufunke Adekoya, and Alejandro Escobar to review this case. Neither the Respondent nor the World Bank Group’s Integrity Vice Presidency (“INT”) requested a hearing in this matter. Nor did the Panel Chair² decide, in her discretion, to convene a hearing. Accordingly, the Sanctions Board deliberated and reached its decision based on the written record.³

2. In accordance with Section III.A, sub-paragraph 8.02(a) of the Sanctions Procedures, the written record for the Sanctions Board’s consideration included the following:

- i. Notice of Sanctions Proceedings issued by the World Bank’s Suspension and Debarment Officer (the “SDO”) to the Respondent on August 22, 2018 (the “Notice”), appending the Statement of Accusations and Evidence (the “SAE”) submitted by INT to the SDO (undated);
- ii. Explanation submitted by the Respondent to the SDO on September 19, 2018 (the “Explanation”);
- iii. Response submitted by the Respondent to the Secretary to the Sanctions Board on November 19, 2018 (the “Response”); and

¹ In accordance with Section II(y) of the World Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects, issued on June 28, 2016 (the “Sanctions Procedures”), the term “World Bank Group” means, collectively, the International Bank for Reconstruction and Development (“IBRD”), the International Development Association (“IDA”), the International Finance Corporation (“IFC”), and the Multilateral Investment Guarantee Agency (“MIGA”). The term “World Bank Group” includes Bank Guarantee Projects and Bank Carbon Finance Projects, but does not include the International Centre for Settlement of Investment Disputes (“ICSID”). As in the Sanctions Procedures, the terms “World Bank” and “Bank” are here used interchangeably to refer to both IBRD and IDA. See Sanctions Procedures at Section II(x).

² Sanctions Procedures at Section II(s).

³ See Sanctions Procedures at Section III.A, sub-paragraph 6.01.

- iv. Reply submitted by INT to the Secretary to the Sanctions Board on December 19, 2018 (the “Reply”).

3. On August 22, 2018, pursuant to Section III.A, sub-paragraphs 4.01 and 4.02 of the Sanctions Procedures, the SDO issued the Notice and temporarily suspended the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent, from eligibility⁴ with respect to any Bank-Financed Projects,⁵ pending the final outcome of these sanctions proceedings. The Notice specified that the temporary suspension would apply across the operations of the World Bank Group. In addition, pursuant to Section III.A, sub-paragraphs 4.01(c), 9.01, and 9.04 of the Sanctions Procedures, the SDO recommended in the Notice the sanction of debarment with conditional release for the Respondent, together with any entity that is an Affiliate directly or indirectly controlled by the Respondent. The SDO recommended a minimum period of ineligibility of three (3) years, after which period the Respondent may be released from ineligibility only if it has, in accordance with Section III.A, sub-paragraph 9.03 of the Sanctions Procedures, demonstrated to the World Bank Group’s Integrity Compliance Officer that it has (i) taken appropriate remedial measures to address the sanctionable practice for which the Respondent has been sanctioned, and (ii) adopted and implemented an effective integrity compliance program in a manner satisfactory to the Bank.

II. GENERAL BACKGROUND

4. This case arises in the context of the Health Sector Development Program (the “Project”) in the People’s Republic of Bangladesh (the “Recipient”), which “sought to enable the Recipient to strengthen its health systems and improve its health services, particularly for the poor.” On September 12, 2011, IDA and the Recipient entered into a financing agreement (the “Financing Agreement”) to provide the equivalent of approximately US\$358.90 million for the Project. The Project became effective on October 23, 2011, and closed on June 30, 2017.

5. On March 29, 2012, the implementation unit for the Project (the “PIU”) issued bidding documents (the “First Tender”) for a contract for the procurement of radiotherapy equipment (the “Contract”). On June 3, 2012, a firm (the “Principal”) submitted a bid for the Contract, naming the Respondent as its agent. The PIU found all bids non-responsive, and consequently cancelled the First Tender.

6. On April 11, 2013, the PIU reissued bidding documents for the Contract (the “Re-Tender”). On June 11, 2013, the Principal submitted a bid, again naming the Respondent as its agent. The PIU found the Principal to be the lowest evaluated responsive qualified bidder and thus recommended the

⁴ The full scope of ineligibility effected by a temporary suspension is set out in the Sanctions Procedures at Section III.A, sub-paragraphs 4.02(a) and 9.01(c), read together.

⁵ The term “Bank-Financed Projects” encompasses an investment project or a program for results operation, for which IBRD or IDA (as the case may be), whether acting for its own account or in the capacity as administrator of trust funds funded by donors, has provided financing in the form of a loan, credit or grant and governed by the Bank’s Procurement Guidelines, Consultant Guidelines, or Anti-Corruption Guidelines. See Sanctions Procedures at Section II(e).

award of the Contract to the company. On October 23, 2013, the PIU and the Principal entered into the Contract.

7. INT alleges that the Respondent engaged in a collusive practice by entering into an arrangement with the Principal and the PIU to improperly influence the procurement process for the Contract in favor of the Principal.

III. APPLICABLE STANDARDS OF REVIEW

8. *Standard of proof:* Pursuant to Section III.A, sub-paragraph 8.02(b)(i) of the Sanctions Procedures, the Sanctions Board determines whether the evidence presented by INT, as contested by a respondent, supports the conclusion that it is “more likely than not” that the respondent engaged in a sanctionable practice. Section III.A, sub-paragraph 8.02(b)(i) defines “more likely than not” to mean that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the respondent engaged in a sanctionable practice.

9. *Burden of proof:* Under Section III.A, sub-paragraph 8.02(b)(ii) of the Sanctions Procedures, INT bears the initial burden of proof to present evidence sufficient to establish that it is more likely than not that a respondent engaged in a sanctionable practice. Upon such a showing by INT, the burden of proof shifts to the respondent to demonstrate that it is more likely than not that its conduct did not amount to a sanctionable practice.

10. *Evidence:* As set forth in Section III.A, sub-paragraph 7.01 of the Sanctions Procedures, formal rules of evidence do not apply; and the Sanctions Board has discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered.

11. *Applicable definition of collusive practice:* The Financing Agreement provided that the World Bank’s Guidelines: Procurement under IBRD Loans and IDA Credits (May 2004, revised October 1, 2006 and May 1, 2010) (the “May 2010 Procurement Guidelines”) would apply. However, the bidding documents for the First Tender provided that the World Bank’s Guidelines: Procurement under IBRD Loans and IDA Credits (May 2004) would apply, but defined collusive practice in accordance with the definition from the May 2010 Procurement Guidelines. The bidding documents for the Re-Tender provided that the May 2010 Procurement Guidelines would apply and included the definition of collusive practice stated in that version of the Guidelines. The Sanctions Board has held that, in cases where the bidding documents refer generally to a certain version of the Guidelines, but in their text set out definitions that accord with another version of the Guidelines, the latter definitions shall prevail as set out directly in the text. Therefore, the alleged sanctionable practice in this case has the meaning set forth in the May 2010 Procurement Guidelines. Paragraph 1.14(a)(iii) of the May 2010 Procurement Guidelines defines the term “collusive practice” as “an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.” A footnote to this definition provides that “[f]or the purposes of these Guidelines, ‘parties’ refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non-competitive levels.”⁶

⁶ May 2010 Procurement Guidelines at para. 1.14(a)(iii), n.21.

IV. PRINCIPAL CONTENTIONS OF THE PARTIES

A. INT's Principal Contentions in the SAE

12. INT alleges that the Respondent entered into a collusive arrangement with the Principal and the PIU to influence the procurement process for the Contract, and to allow the Principal to win the Contract at an artificial, non-competitive price. INT asserts that (i) the Respondent discussed the bid price with the PIU officials before bid submission for the First Tender and the Re-Tender; (ii) the Respondent had information on the First Tender even before it was made public; and (iii) technical specifications in the tenders were designed to favor the Principal. INT does not allege any aggravating or mitigating factors. Nevertheless, INT asserts that the Respondent's "modest cooperation" does not warrant any mitigation because the Respondent refused to provide documents that may have contained incriminating information.

B. The Respondent's Principal Contentions in the Explanation and the Response

13. The Respondent first raises a concern that INT's failure to name the Principal, the Principal's staff, and the PIU as respondents in this case amounts to a misjoinder or a non-joinder of necessary parties. The Respondent then denies INT's allegation that the Respondent entered into any collusive arrangement with the Principal and the PIU. The Respondent argues that INT failed to present direct evidence demonstrating the Respondent's (i) involvement in the alleged price-fixing; (ii) supposed influence over the Principal's bid price; and (iii) purported influence or pressure over the PIU with respect to tailoring technical specifications of the tender in favor of the Principal. While the Respondent does not explicitly assert any mitigating factors, it contends that it "disclosed every single document to INT."

C. INT's Principal Contentions in the Reply

14. INT argues that evidence in the record reveals, *inter alia*, that the Respondent was a central player in the collusive arrangement and that the Respondent exerted efforts to influence the procurement process for the Contract in favor of the Principal. In addition, INT reiterates the allegations set out in the SAE.

V. THE SANCTIONS BOARD'S ANALYSIS AND CONCLUSIONS

15. The Sanctions Board will first address the evidentiary and procedural issues in this case. The Sanctions Board will then consider whether it is more likely than not that the alleged collusive practice occurred, and if so, whether the Respondent may be held liable for the misconduct. Finally, the Sanctions Board will determine what sanctions, if any, should be imposed on the Respondent.

A. Evidentiary and Procedural Issues

1. Withholding of materials

16. INT requested to withhold from the Respondent materials consisting of transcripts of interviews conducted by INT with a number of witnesses. In the SAE, INT described these materials as "Strictly Confidential Exhibits" withheld pursuant to Section III.A, sub-paragraph 5.04(c) of the

Sanctions Procedures. INT did not submit any arguments in support of its request. At the invitation of the Sanctions Board Chair, INT filed a memorandum on January 24, 2019, asserting that it has “reasonable basis to believe that disclosing the identity of all [the] witnesses [in the withheld exhibits] would endanger their lives, health, safety or well-being.”

17. On February 22, 2019, having considered the totality of the record, the applicable provisions of the sanctions framework, and relevant Sanctions Board precedent,⁷ the Sanctions Board denied INT’s request to withhold materials from the Respondent. The Sanctions Board found that INT failed to adequately substantiate its reason for withholding the materials in question, as required by Section III.A, sub-paragraph 5.04(c) of the Sanctions Procedures. As a result, on February 28, 2019, INT withdrew the subject exhibits from the record of this case.

2. Misjoinder or non-joinder of parties

18. The Respondent asserts that INT’s failure to name the Principal, as well as some of its staff, and the PIU as respondents in this case amounts to a misjoinder or a non-joinder of necessary parties. The sanctions framework does not explicitly address a specific objection or defense on the basis of “misjoinder of party” or “non-joinder of necessary parties.” Nor have these defenses been the subject of Sanctions Board jurisprudence. The Sanctions Board notes that the sanctions framework grants INT the independence to seek to initiate sanctions proceedings if, as a result of its investigation, it believes that a firm or individual has engaged in one or more sanctionable practices recognized by the World Bank Group.⁸ In seeking to initiate sanctions proceedings, INT has discretion to designate in the statement of accusations and evidence each respondent alleged to have engaged in misconduct, as well as each affiliate proposed to be sanctioned.⁹ The sanctions framework does not empower the Sanctions Board to compel INT to initiate sanctions proceedings against specific firms and individuals. This does not mean, however, that the Sanctions Board may not review concerns regarding fundamental due process rights in relation to the conduct of INT’s investigation, or the initiation or litigation of sanctions proceedings.¹⁰

19. With respect to the Principal, the Sanctions Board notes that the Principal entered into a Negotiated Resolution Agreement with the Bank in March 2018 in relation to collusive practices, for which it received the sanction of debarment with conditional release for a minimum period of two years. With respect to the PIU, the Sanctions Board notes that, pursuant to longstanding policy, government officials are not subject to the Bank’s sanctions regime when acting in their official

⁷ See, e.g., Sanctions Board Decision No. 83 (2015) at paras. 43-44.

⁸ See Sanctions Procedures at Section III.A, sub-paragraph 3.01; Bank Directive: Sanctions for Fraud and Corruption in Bank Financed Projects issued on June 28, 2016, at Section III.A, sub-paragraph 2; The World Bank Group’s Sanctions Regime: Information Note (November 2011) (“Information Note”) at p. 4.

⁹ Sanctions Procedures at Section III.A, sub-paragraph 3.01(b)(ii).

¹⁰ See, e.g., Sanctions Board Decision No. 90 (2016) at paras. 18-21; Sanctions Board Decision No. 92 (2017) at paras. 49-50; Sanctions Board Decision No. 96 (2017) at paras. 45-46.

capacity.¹¹ This exception to jurisdiction is not granted for the personal benefit of any individuals; it is functional in nature and serves to protect the legitimate exercise of state authority.¹² In these circumstances, the Sanctions Board finds that the non-inclusion of the Principal and the PIU as respondents did not result in any fundamental unfairness that affected the Respondent's ability to mount a meaningful response to INT's allegations. Neither does it prevent the Sanctions Board from deciding this case on the merits, as the record is sufficient for it to make a determination on the liability, if any, of the Respondent.

B. Evidence of Collusive Practice

20. Pursuant to the definition of "collusive practice" under Paragraph 1.14(a)(iii) of the May 2010 Procurement Guidelines, INT bears the initial burden to show that it is more likely than not that the Respondent (i) participated in an arrangement between two or more parties, (ii) designed to achieve an improper purpose, including to influence improperly the actions of another party.

1. Arrangement between two or more parties

21. INT alleges that the Respondent entered into a collusive arrangement with the Principal and the PIU. INT asserts that, through this arrangement, (i) the Respondent discussed the bid price with PIU officials before bid submission for the First Tender and the Re-Tender; (ii) the Respondent had information on the First Tender before it was made public; and (iii) technical specifications in both tenders were designed to favor the Principal. The Respondent argues that INT failed to present direct evidence of the Respondent's involvement in the alleged collusive scheme.

22. The totality of the evidence supports a finding that it is more likely than not that the Respondent had discussions with the PIU regarding bid pricing. In particular, several emails exchanged among employees of the Principal on April 17-18, 2012, indicate that the Respondent was scheduled to hold discussions with the PIU about the Principal's final bid price for the First Tender. It appears from these emails, which were sent before the bid submission deadline for the First Tender, that the Principal's final bid price was contingent on the communications between the Respondent and the PIU. For instance, an employee of the Principal sent an email to his colleague on April 17, 2012, stating that "they will discuss to finalize the final price for the bid ... more or less doubled !!!" The reference to "they" in the email more likely than not pertains to the Respondent, considering that subsequent emails among the same employees of the Principal either referred to the Principal's "agent" or explicitly named the Respondent as having scheduled discussions with the PIU regarding the bid price. As discussed in Paragraph 5, the Principal named the Respondent as its agent for the First Tender and the Re-Tender. In addition, an email sent by an employee of the Principal to his colleagues on June 3, 2013, prior to the bid submission deadline for the Re-Tender, indicates that the

¹¹ See Advisory Opinion on Certain Issues Arising in Connection with Recent Sanctions Cases, No. 2010/1 (LEG, November 15, 2010) ("Advisory Opinion") at paras. 128-130, available at: <http://go.worldbank.org/CVUUIS7HZ0>; Information Note at pp. 16-20. See also Sanctions Board Decision No. 66 (2014) at para. 18; Sanctions Board Decision No. 78 (2015) at para. 45; Sanctions Board Decision No. 88 (2016) at para. 21; Sanctions Board Decision No. 115 (2019) at para. 30.

¹² This policy is primarily grounded in the Bank's general duties, as a multilateral institution, to respect the sovereignty of its members, cooperate with national agencies, and refrain from interfering in political affairs. See Advisory Opinion at paras. 128-130; Information Note at pp. 16-20.

Respondent was in discussions with the PIU in order to reach an agreement with respect to the Principal's bid price for the Re-Tender. The Respondent has not advanced any evidence to rebut the implications of these emails, and denies that these emails are sufficient to establish collusion. The Sanctions Board, applying the evidentiary standard prescribed by the Sanctions Procedures, reaches the opposite conclusion.

23. The Sanctions Board, however, finds that the record is insufficient to show that it is more likely than not that the Respondent improperly obtained information about the First Tender before it was made public. In particular, the record shows that the Respondent forwarded the bidding documents for the First Tender to the Principal on April 5, 2012, a week after the PIU published these bidding documents. Inexplicably, however, the record also includes evidence suggesting that third parties seem to have been aware of the terms of the bidding documents even before their official publication. The Sanctions Board cannot conclude on the record that the Respondent improperly obtained information about the First Tender before the bidding documents were made public. In addition, the Sanctions Board finds that the record does not demonstrate that it is more likely than not that the Respondent was involved in the alleged tailoring of technical specifications in favor of the Principal. The record does contain numerous complaints from other bidders and prospective bidders about the narrow scope of the technical specifications provided under the First Tender and the Re-Tender. Even if those complaints were justified, however, they are directed at a decision taken by the PIU. There are plausible legitimate explanations as to how the PIU determined the scope of the First Tender and the Re-Tender, and no specific evidence indicating the Respondent's involvement in the PIU's exercise of its discretion. The complaints in themselves are not sufficient to demonstrate a collusive arrangement between the Respondent and the PIU. Accordingly, the Sanctions Board will address the second element of collusive practice only in relation to the Respondent's discussions with the PIU regarding the Principal's final bid price.

2. Designed to achieve an improper purpose, including to influence improperly the actions of another party

24. INT alleges that the arrangement among the Respondent, the Principal, and the PIU was designed to influence the procurement process for the Contract and allowed the Principal to win the Contract at an artificial, non-competitive price. The Respondent argues that INT failed to present direct evidence showing that the Respondent influenced the Principal's bid price.

25. The evidence in the record supports a finding that the arrangement between the Respondent, the Principal, and the PIU was designed to influence the bidding processes for the First Tender and the Re-Tender in favor of the Principal so as to stifle open competition for the Contract. The conduct described in Paragraph 22 – i.e., holding discussions with the PIU regarding the bid pricing – reflected a purpose of ensuring that the Principal offer a bid price amenable to the PIU in order to secure the Contract. Consistent with this purpose, the Principal was found to be the lowest evaluated responsive qualified bidder for the Re-Tender, and was ultimately awarded the Contract. While evidence that the desired influence actually materialized is not necessary to establish this element of collusive practices, it may bolster a showing of a respondent's intent to influence, which is all that is required.¹³

¹³ See, e.g., Sanctions Board Decision No. 87 (2016) at paras. 81, 87.

26. On the basis of the record as a whole, the Sanctions Board finds that it is more likely than not that the arrangement between the Respondent and the PIU was designed to achieve an improper purpose.

C. Sanctioning Analysis

1. General framework for determination of sanctions

27. Where the Sanctions Board determines that it is more likely than not that a respondent engaged in a sanctionable practice, Section III.A, sub-paragraph 8.01(b) of the Sanctions Procedures requires the Sanctions Board to select and impose one or more appropriate sanctions from the range of possible sanctions identified in Section III.A, sub-paragraph 9.01. The range of sanctions set out in Section III.A, sub-paragraph 9.01 includes: (i) reprimand, (ii) conditional non-debarment, (iii) debarment, (iv) debarment with conditional release, and (v) restitution or remedy. As stated in Section III.A, sub-paragraph 8.01(b) of the Sanctions Procedures, the Sanctions Board is not bound by the SDO's recommendations.

28. As reflected in Sanctions Board precedent, the Sanctions Board considers the totality of the circumstances and all potential aggravating and mitigating factors to determine an appropriate sanction.¹⁴ The choice of sanction is not a mechanistic determination, but rather a case-by-case analysis tailored to the specific facts and circumstances presented in each case.¹⁵

29. The Sanctions Board is required to consider the types of factors set forth in Section III.A, sub-paragraph 9.02 of the Sanctions Procedures, which provides a non-exhaustive list of considerations. In addition, the Sanctions Board refers to the factors and principles set out in the World Bank Sanctioning Guidelines (the "Sanctioning Guidelines"). While the Sanctioning Guidelines themselves state that they are not intended to be prescriptive in nature, they provide guidance as to the types of considerations potentially relevant to a sanctions determination. The Sanctioning Guidelines further suggest potentially applicable ranges of increases or decreases from a proposed base sanction of debarment with the possibility of conditional release after a minimum period of three years.

30. Where the Sanctions Board imposes a sanction on a respondent, it may also, pursuant to Section III.A, sub-paragraph 9.04(b) of the Sanctions Procedures, impose appropriate sanctions on any Affiliate of the respondent.

2. Factors considered in the present case

a. Cooperation

31. *Assistance and/or ongoing cooperation with investigation:* Section III.A, sub-paragraph 9.02(e) of the Sanctions Procedures provides for mitigation where a respondent "cooperated in the investigation or resolution of the case." Section V.C.1 of the Sanctioning Guidelines states that cooperation may take the form of assistance to INT's investigation or ongoing

¹⁴ See, e.g., Sanctions Board Decision No. 40 (2010) at para. 28.

¹⁵ See Sanctions Board Decision No. 44 (2011) at para. 56.

cooperation, with consideration of “INT’s representation that the respondent has provided substantial assistance in an investigation,” as well as “the truthfulness, completeness, [and] reliability of any information or testimony, the nature and extent of the assistance, and the timeliness of assistance.” The Sanctions Board has previously granted varying levels of mitigation where the respondent met with INT on several occasions, and provided relevant information and documentation;¹⁶ or replied to INT’s show-cause letter and follow-up inquiries.¹⁷

32. In this case, INT asserts that the Respondent’s “modest cooperation” does not warrant mitigation, considering that the Respondent “refused to provide documents to INT that may have contained incriminating information.” INT argues that although the Respondent provided INT with a “handful of documents” and the Respondent’s representatives were interviewed by INT on two occasions, the Respondent did not provide any information that could help advance INT’s investigation. The Respondent contends that it “disclosed every single document to INT.” The record reveals that the Respondent allowed its employees, including its proprietor, to be interviewed by INT twice: first on May 31, 2014, and again on September 29, 2015. In addition, the Respondent twice allowed INT to conduct an inspection of the Respondent’s records in the company’s premises. The Respondent and the Respondent’s proprietor each responded in a timely manner to INT’s separate show-cause letters. However, the record also shows that, while the Respondent gave INT access to some of the company’s documents, the Respondent failed to provide INT with certain requested documents despite INT’s repeated requests. Consistent with precedent,¹⁸ the Sanctions Board finds that a reasonable degree of mitigation is warranted for the Respondent’s cooperation with INT.

b. Period of temporary suspension

33. Pursuant to Section III.A, sub-paragraph 9.02(h) of the Sanctions Procedures, the Sanctions Board takes into account the period of the Respondent’s temporary suspension since the SDO’s issuance of the Notice on August 22, 2018.

c. Other considerations

34. *Passage of time:* Under Section III.A, sub-paragraph 9.02(i) of the Sanctions Procedures, the Sanctions Board may consider “any other factor” that it “reasonably deems relevant to the sanctioned party’s culpability or responsibility in relation to the [s]anctionable [p]ractice.” The Sanctions Board has previously considered as a mitigating factor the passage of a significant period of time from the commission of the misconduct, or from the Bank’s awareness of the potential sanctionable practices,

¹⁶ See, e.g., Sanctions Board Decision No. 53 (2012) at para. 58; Sanctions Board Decision No. 92 (2017) at para. 122.

¹⁷ See, e.g., Sanctions Board Decision No. 66 (2014) at para. 42; Sanctions Board Decision No. 92 (2017) at para. 122.

¹⁸ See, e.g., Sanctions Board Decision No. 86 (2016) at para. 51 (applying partial mitigation where the respondent agreed to be interviewed by INT at length but failed to share relevant documents and other information that INT repeatedly requested); Sanctions Board Decision No. 88 (2016) at para. 56 (applying some mitigation where the respondent allowed its personnel to be interviewed by INT and shared with INT a number of documents and financial records, but failed to provide INT with full access to relevant emails without any persuasive explanation).

to the initiation of sanctions proceedings.¹⁹ This passage of time may affect the weight that the Sanctions Board attaches to the evidence presented, as well as the fairness of the process for respondents.²⁰ Here, at the time that the Notice was issued in August 2018, approximately six years and six months had elapsed since the Bank appears to have first become aware of possible misconduct when it received a letter of complaint from a potential bidder in February 2012, and more than six years had passed since the commission of the misconduct. The Sanctions Board, therefore, finds that mitigation is warranted on this ground.

D. Determination of Appropriate Sanction

35. Considering the full record and all the factors discussed above, the Sanctions Board issues a formal letter of public reprimand to the Respondent, which shall be posted on the World Bank's website for a period of six (6) months, beginning from the date of this decision, without prejudice to the Respondent's eligibility to participate in Bank-Financed Projects. This sanction is imposed on the Respondent for a collusive practice as defined in Paragraph 1.14(a)(iii) of the May 2010 Procurement Guidelines.



Ellen Gracie Northfleet (Panel Chair)

On behalf of the
World Bank Group Sanctions Board

Ellen Gracie Northfleet
Olufunke Adekoya
Alejandro Escobar

¹⁹ See, e.g., Sanctions Board Decision No. 50 (2012) at para. 71 (applying mitigation where sanctions proceedings were initiated approximately five years after the Bank's awareness of the potential sanctionable practices); Sanctions Board Decision No. 63 (2014) at para. 116 (applying mitigation to multiple respondents where sanctions proceedings were initiated more than five (and up to nine) years after the misconduct, and more than five (and up to eight) years after the Bank's awareness of the potential sanctionable practices); Sanctions Board Decision No. 68 (2014) at para. 47 (applying mitigation where sanctions proceedings were initiated more than four and a half years after the sanctionable practices had occurred and more than four years after the Bank had become aware of the potential misconduct).

²⁰ See, e.g., Sanctions Board Decision No. 50 (2012) at para. 71; Sanctions Board Decision No. 83 (2015) at para. 102.